

State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 01/29/2008 (Per: CTS)





Appendix A

 The 2007 drafting file for LRB-2983/1

has been copied/added to the drafting file for

2007 LRB-3970

 The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

2007 DRAFTING REQUEST**Bill**Received: **07/17/2007**Received By: **csundber**Wanted: **As time permits**

Identical to LRB:

For: **Financial Institutions**By/Representing: **Carrie Templeton**This file may be shown to any legislator: **NO**Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**Requester's email: **Catherine.Haberland@dfi.state.wi.us**Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Retaining security or identification data associated with credit card

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 07/25/2007	bkraft 08/02/2007					
/P1	csundber 11/30/2007	bkraft 12/10/2007	pgreensl 08/02/2007		lparisi 08/02/2007		State
/1			rschluet 12/10/2007		lparisi 12/10/2007	mbarman 01/28/2008	

LRB-2983

01/28/2008 01:38:44 PM

Page 2

FE Sent For:

<END>

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May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**Requester's email: **John.Collins@dfi.state.wi.us**Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

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/?	csundber 07/25/2007	bkraft 08/02/2007		_____			
/P1	csundber 11/30/2007	bkraft 12/10/2007	pgreensl 08/02/2007	_____	lparisi 08/02/2007		State
/1			rschluet 12/10/2007	_____	lparisi 12/10/2007		

LRB-2983

12/10/2007 02:30:05 PM

Page 2

FE Sent For:

<END>

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Bill

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/?	csundber 07/25/2007	bkraft 08/02/2007					
/P1			pgreensl 08/02/2007		lparisi 08/02/2007		

FE Sent For:

1 bjk 12/10

[Handwritten signature]
<END>

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Topic:

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See Attached

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1/?	csundber	PI bjk 7/30 PI bjk 8/11 8/11	1/2 ps	7/27/08 7/27/08			
FE Sent For:				<END>			

Kunkel, Mark

From: Templeton, Carrie E - DFI
Sent: Thursday, May 31, 2007 1:05 PM
To: Kunkel, Mark
Cc: Collins, John R - DFI; 'Tom Liebe'
Subject: Drafting request
Attachments: Security breach draft MN lang 053107.pdf

Hi Mark

Can you please draft the attached language for Wisconsin? DFI is requesting the draft on behalf of the Wisconsin Credit Union League.

As you may recall, my last day at DFI is next Friday, June 8. I'm assuming the draft will not be complete until after that date. If you could please send the draft when it is available to John Collins, DFI's Deputy Secretary, and Tom Liebe of WCUL, that would be appreciated. They are both cc'd on this email.

Please feel free to contact me with any questions. Thanks

Carrie

<<Security breach draft MN lang 053107.pdf>>

Carrie Templeton

Department of Financial Institutions

(608) 264-7800

carrie.templeton@dfi.state.wi.us

05/31/2007

This Document can be made available
in alternative formats upon request

HOUSE FILE NO. 1758

FIRST COMMITTEE ENGROSSMENT

March 7, 2007

Authored by Davnie, Atkins, Sertich, Simon, Zellers and others

The bill was read for the first time and referred to the Committee on Commerce and Labor

Referred by Chair to Labor and Consumer Protection Division.

March 19, 2007

Returned to the Committee on Commerce and Labor as Amended.

- 11 A bill for an act
12 relating to commerce; regulating access devices; establishing liability for
13 security breaches; providing enforcement powers; proposing coding for new law
14 in Minnesota Statutes, chapter 325E.
- 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 16 Section 1. **[325E.64] ACCESS DEVICES; BREACH OF SECURITY.**
- 17 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this
18 subdivision have the meanings given them.
- 19 (b) "Access device" means a card issued by a financial institution that contains a
110 magnetic stripe, microprocessor chip, or other means for storage of information which
111 includes, but is not limited to, a credit card, debit card, or stored value card.
- 112 (c) "Breach of the security of the system" has the meaning given in section 325E.61,
113 subdivision 1, paragraph (d).
- 114 (d) "Card security code" means the three-digit or four-digit value printed on an
115 access device or contained in the microprocessor chip of an access device which is used to
116 validate access device information during the authorization process.
- 117 (e) "Financial institution" means any office of a bank, bank and trust, trust company
118 with banking powers, savings bank, industrial loan company, savings association, credit
119 union, or regulated lender.
- 120 (f) "Microprocessor chip data" means the data contained in the microprocessor
121 chip of an access device.
- 122 (g) "Magnetic stripe data" means the data contained in the magnetic stripe of an
123 access device.
- 124 (h) "PIN" means a personal identification code that identifies the cardholder.

2.1 (i) "PIN verification code data" means the data used to verify cardholder identity
2.2 when a PIN is used in a transaction.

2.3 (j) "Service provider" means a person or entity that stores, processes, or transmits
2.4 access device data on behalf of another person or entity.

2.5 Subd. 2. Security or identification information; retention prohibited. No person
2.6 or entity conducting business in Minnesota that accepts an access device in connection
2.7 with a transaction shall retain the card security code data, the PIN verification code data,
2.8 or the full contents of any track of magnetic stripe data, subsequent to the authorization
2.9 of the transaction. A person or entity is in violation of this section if its service provider
2.10 retains such data subsequent to the authorization of the transaction.

2.11 Subd. 3. Liability. Notwithstanding any other provision of law or contract and in
2.12 addition to any other liability of a person or entity, whenever there is a breach of the
2.13 security of the system of a person or entity that has violated this section, or that person's
2.14 or entity's service provider, that person or entity shall reimburse the financial institution
2.15 that issued any access devices affected by the breach for the costs of reasonable actions
2.16 undertaken by the financial institution as a result of the breach in order to protect the
2.17 information of its cardholders or to continue to provide services to cardholders, including
2.18 but not limited to, any cost incurred in connection with:

2.19 (1) the cancellation or reissuance of any access device affected by the breach;

2.20 (2) the closure of any deposit, transaction, share draft, or other accounts affected
2.21 by the breach and any action to stop payments or block transactions with respect to the
2.22 accounts;

2.23 (3) the opening or reopening of any deposit, transaction, share draft, or other
2.24 accounts affected by the breach;

2.25 (4) any refund or credit made to a cardholder to cover the cost of any unauthorized
2.26 transaction relating to the breach; and

2.27 (5) the notification of cardholders affected by the breach.

2.28 Subd. 4. Remedies. (a) Any person injured by a violation of the standards, duties,
2.29 prohibitions, or requirements of this section has a private right of action and the court
2.30 shall award:

2.31 (1) actual, incidental, and consequential damages; and

2.32 (2) court costs and reasonable attorney fees.

2.33 (b) A person injured by a violation of the standards, duties, prohibitions, or
2.34 requirements of this section also may bring an action under section 8.31. A private right of
2.35 action by a borrower under this chapter is in the public interest.

- 31 (c) The remedies provided in this section are cumulative and do not restrict any
32 other right or remedy otherwise available to the borrower.

Kunkel, Mark

From: Kunkel, Mark
Sent: Thursday, July 12, 2007 5:52 PM
To: Sundberg, Christopher
Subject: Retention of access card info

Chris, I'm catching up on stuff that came in during the budget. One item is a request from DFI for a bill based on a Minnesota law that appears to apply to merchants and others who conduct business with consumers who use credit cards, debit cards, etc. The Minnesota law prohibits such a merchant from retaining security or identification info associated with the card.

Have you drafted something like this already? I think it might be a trade reg draft, not financial institutions. However, I've had it since May 31, and I haven't entered it yet. Given that the delay is all my fault, I could work on it. Unless you've done something already on this topic and you can do it without much hassle.

-- Mark

DATA WAREHOUSES; DISCLOSURE OF PERSONAL INFORMATION**325E.61 DATA WAREHOUSES; NOTICE REQUIRED FOR CERTAIN DISCLOSURES.**

- Subdivision 1. **Disclosure of personal information; notice required.** (a) Any person or business that conducts business in this state, and that owns or licenses data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in paragraph (c), or with any measures necessary to determine the scope of the breach, identify the individuals affected, and restore the reasonable integrity of the data system.
- (b) Any person or business that maintains data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.
- (c) The notification required by this section and section 13.055, subdivision 6, may be delayed to a date certain if a law enforcement agency affirmatively determines that the notification will impede a criminal investigation.
- (d) For purposes of this section and section 13.055, subdivision 6, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security system, provided that the personal information is not used or subject to further unauthorized disclosure.
- (e) For purposes of this section and section 13.055, subdivision 6, "personal information"



In: 7/25/07
State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2983

CTS:.....

P1
bjk + jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

d-note

SA ✓
x-ref ✓

gen. cat.

- 1 **AN ACT ...; relating to:** prohibiting the retention of certain information obtained
2 in transactions using account access devices. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version. ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 **SECTION 1.** 100.545 of the statutes is created to read: ✓
4 ✓ **100.545 Account access devices; retention of information. (1)** ✓
5 **DEFINITIONS.** In this section:
6 (a) "Account access device" means a card issued by a financial institution that
7 contains a means for storage of electronic data.
8 (b) "Security code" means digits printed or electronically stored on an account ✓
9 access device that are used to validate information during the authorization process.
10 (c) "Service provider" means a person that stores, processes, or transmits ✓
11 account access device data on behalf of another person. ✓

1 (2) RETENTION OF CERTAIN INFORMATION PROHIBITED. No person that accepts an
2 account access device in connection with a transaction shall retain a security code,
3 personal identification number, or electronic data obtained from an account access
4 device, or permit the person's service provider to retain a security code, personal
5 identification number, or electronic data obtained from an account access device,
6 after the transaction is authorized.

7 (3) LIABILITY. If a person violates this section and the violation causes the
8 security, confidentiality, or integrity of another person's personal information to be
9 compromised, the violator shall reimburse the financial institution that issued any
10 account access device affected by the violation for the cost of reasonable action taken
11 by the financial institution to protect personal information pertaining to, or to
12 continue to provide service to, the financial institution's customers, including the
13 cost of doing any of the following:

- 14 (a) ^{Canceling} Cancelling or reissuing an account access device affected by the violation. ✓
15 (b) Closing an account affected by the violation and taking action to stop
16 payments or block transactions involving the account. ✓
17 (c) Opening or reopening an account affected by the violation. ✓
18 (d) Refunding or crediting a customer to cover the cost of an unauthorized
19 transaction relating to the violation. ✓
20 (e) Notifying customers affected by the violation. ✓

21 (4) REMEDIES. Any person injured by a violation of this section may bring an
22 action against the violator for damages. Notwithstanding s. 814.04 (1), a court shall
23 award reasonable attorney fees to a plaintiff who prevails in an action under this
24 subsection. ✓

25

(END)

D-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2983/P1dn

CTS:.....

Date

1
bjk slgf

John Collins:

This is a preliminary draft. Please review it carefully and note the following:

1. This language is based on Minnesota legislation provided by Carrie Templeton. I have rewritten much of the Minnesota language for the sake of clarity and readability.
2. I have eliminated some ambiguous terms from the Minnesota language, but some terms remain that seem vague, including "transaction," "financial institution," and "authorization process." Should the draft include definitions for these terms?

Christopher T. Sundberg

Legislative Attorney

Phone: (608) 266-9739

E-mail:

christopher.sundberg@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2983/P1dn
CTS:bjk&kjf:pg

August 2, 2007

John Collins:

This is a preliminary draft. Please review it carefully and note the following:

1. This language is based on Minnesota legislation provided by Carrie Templeton. I have rewritten much of the Minnesota language for the sake of clarity and readability.
2. I have eliminated some ambiguous terms from the Minnesota language, but some terms remain that seem vague, including "transaction," "financial institution," and "authorization process." Should the draft include definitions for these terms?

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

Sundberg, Christopher

From: Tom Liebe [tliebe@theleague.coop]
Sent: Tuesday, November 27, 2007 10:55 AM
To: Sundberg, Christopher
Cc: Haberland, Catherine
Subject: RE: plastic card protection draft - LRB 2983

Chris,

In addition to the exemption for financial institutions that are covered by the security provisions of GLBA, could you please include an exemption for:

- individuals who encrypt transmission of cardholder data across open, public networks using WiFi protected access (WPA or WPA2) technology, and an exemption for
- individuals who are compliant with the 12 Payment Card Industry Data Security Standard requirements and then make the draft into an introducible version?

Thanks,

Tom Liebe

Director of Government Affairs

The Wisconsin Credit Union League

N25 W23131 Paul Road, Pewaukee, WI 53072-5779

(800) 242-0833, Ext. 3150 or cell (608) 213-7073

tliebe@theleague.coop

www.theleague.coop

Wisconsin credit unions have provided free to all of Wisconsin's public high schools the brass|STUDENT PROGRAM- a financial education initiative featuring the lifestyle money magazine brass, which makes personal finance relevant to youth. The program includes free classroom activities for educators that support state teaching standards and searchable database of credit union scholarships for students. Make sure teachers and students near you know about these exciting new resources!

From: Sundberg, Christopher [mailto:Christopher.Sundberg@legis.wisconsin.gov]
Sent: Wednesday, November 14, 2007 10:32 AM
To: Tom Liebe
Subject: RE: plastic card protection draft - LRB 2983

OK. Just to be clear, my suggestions for improving the draft are exactly that: suggestions. I can give you an introducible draft more or less however you like it; you have no obligation to do anything with my comments about the term "authorization" or any other comments.

CS

From: Tom Liebe [mailto:tliebe@theleague.coop]

11/27/2007

Sent: Tuesday, November 13, 2007 11:30 AM
To: Sundberg, Christopher
Subject: RE: plastic card protection draft - LRB 2983

Chris,

Just wanted to let you know I'm continuing to work on tightening up some of the terms/processes.

Take care,

Tom Liebe

Director of Government Affairs

The Wisconsin Credit Union League

N25 W23131 Paul Road, Pewaukee, WI 53072-5779

(800) 242-0833, Ext. 3150 or cell (608) 213-7073

tliebe@theleague.coop

www.theleague.coop

Wisconsin credit unions have provided free to all of Wisconsin's public high schools the brass|STUDENT PROGRAM- a financial education initiative featuring the lifestyle money magazine brass, which makes personal finance relevant to youth. The program includes free classroom activities for educators that support state teaching standards and searchable database of credit union scholarships for students. Make sure teachers and students near you know about these exciting new resources!

From: Sundberg, Christopher [mailto:Christopher.Sundberg@legis.wisconsin.gov]

Sent: Monday, November 05, 2007 11:45 AM

To: Tom Liebe

Subject: RE: plastic card protection draft - LRB 2983

I received a voice mail and email from Catherine this morning- thanks for taking care of that. I should be able to get a redraft out soon if I can figure out what "authorization" means or how to define it in the draft.

It seems important that the draft clearly explain what "authorization" means because it's an event that determines whether someone is violating the requirements of the draft. To put it another way, if the gist of the draft is to prohibit the retention of certain data after a transaction is authorized, and I'm an entity who's handling that kind of data, I want to know exactly when I need to get rid of the data so I'm not violating the law.

I don't think it's necessary to understand the technical details of the authorization process, but maybe you could provide answers to some basic questions. For instance, who decides whether to authorize a transaction or not? What happens if a transaction is not authorized?

From: Tom Liebe [mailto:tliebe@theleague.coop]

Sent: Wednesday, October 31, 2007 11:27 AM

To: Sundberg, Christopher

Subject: RE: plastic card protection draft - LRB 2983

Hm, I'm not real certain. I'll call over and ask, but I assume it will be her replacement Catherine Haberland.

11/27/2007

11/30 Tom Lieber

Redraft LRB-2983: delete "or other
elec data" and substitute "or the full
contents of any track of data from ~~the~~ a
magnetic stripe on the access device"
(plus items in 11/27 email)

10/10 Rebrat LRB-2983/P1

- ✓ 1. Find def. for "fin. institution"
- ✓ 2. Exempt FIs subject to Graham-Leach-Bliley (✓ last session's bill on discl. of data/security breach)
- ✓ 3. Change private action so that only a FI injured by a violation may sue.



In: 11/30/07 Wanted: soon ←

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2983/0
CTS:bjk&kjf:pg

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2007 BILL

SA ✓

INS A ✓

regen. cat

- 1 AN ACT ~~to create~~ 100.545 of the statutes; relating to: prohibiting the retention
2 of certain information obtained in transactions using account access devices.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 100.545 of the statutes is created to read:

- 4 100.545 Account access devices; retention of information. (1) ✓

- 5 DEFINITIONS. In this section:

- 6 (a) "Account access device" means a card issued by a financial institution that
7 contains a means for storage of electronic data.

- 8 (b) "Security code" means digits printed or electronically stored on an account
9 access device that are used to validate information during the authorization process.

- 10 (c) "Service provider" means a person that stores, processes, or transmits
11 account access device data on behalf of another person.

(b) "Financial institution" has the meaning given in
s. 134.97 (1) (b) ✓

(2) RETENTION OF CERTAIN INFORMATION PROHIBITED. No person that accepts an account access device in connection with a transaction shall retain a security code, a personal identification number, or electronic data obtained from an account access device, or permit the person's service provider to retain a security code, a personal identification number, or electronic data obtained from an account access device, after the transaction is authorized.

(3) LIABILITY. If a person violates this section and the violation causes the security, confidentiality, or integrity of another person's personal information to be compromised, the violator shall reimburse the financial institution that issued any account access device affected by the violation for the cost of reasonable action taken by the financial institution to protect personal information pertaining to, or to continue to provide service to, the financial institution's customers, including the cost of doing any of the following:

(a) Canceling or reissuing an account access device affected by the violation.

(b) Closing an account affected by the violation and taking action to stop payments or block transactions involving the account.

(c) Opening or reopening an account affected by the violation.

(d) Refunding or crediting a customer to cover the cost of an unauthorized transaction relating to the violation.

(e) Notifying customers affected by the violation.

(4) REMEDIES. Any person injured by a violation of this section may bring an action against the violator for damages. Notwithstanding s. 814.04 (1), a court shall award reasonable attorney fees to a plaintiff who prevails in an action under this subsection.

(END)

(14) EXEMPTION. No This section does not apply to any of the following P INS 2-21

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2983/lins

CTS:.....

ljk

1

Insert A:

* This bill prohibits the retention of certain data by a person who accepts payment for goods or services in the form of a card issued by a financial institution, generally, a credit card or debit card. The bill prohibits a person who accepts such payment for a sale from retaining a security code, personal identification number, or certain other data, after the sale is authorized. If a person violates the prohibition, the person must reimburse the financial institution that issued the card for the cost of reasonable action taken to protect personal information pertaining to, or to continue to provide service to, the financial institution's customers. A financial institution that is injured by a violation of the prohibition on data retention may bring an action for damages against the violator. ✓

Under the bill, persons are exempt from the prohibition on data retention if they comply with certain federal privacy and security standards or with certain industry standards for data encryption and security. ✓

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill. ✓

Insert 2-3:

And insert 2-5. ←

(2)
(3)

No. 1 the full contents of any track of data from a magnetic stripe on the access device. }

end of insert 2-3 + 2-5

Inserts continued

INS 2-21

A person

895.507
(3m)(a)

(a) An entity that is subject to, and in compliance with, the privacy and security requirements of 15 USC 6801 to 6827, or a person that has a contractual obligation to such an entity, if the entity or person has in effect a policy concerning breaches of information security.

(b) A person that encrypts transmission of data pertaining to a holder of an account access device across open and public networks using Wi-Fi Protected Access or Wi-Fi Protected Access 2 ← number security specifications.

(c) A person who complies with the Payment Card Industry Data Security Standards.

end of insert 2-21

end of inserts

Duerst, Christina

From: Hanaman, Cathlene
Sent: Monday, January 28, 2008 12:21 PM
To: Christina Duerst; Lori Northrop; Mike Barman; Sarah Basford
Subject: FW: LRB-2983/1

Can someone jacket -2983 for Davis?

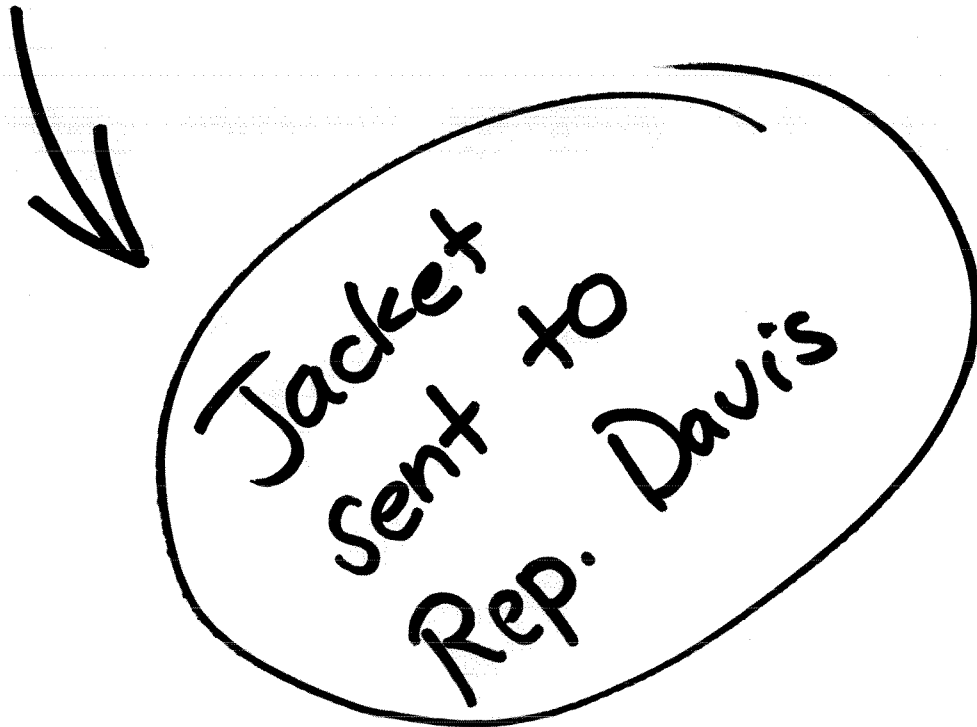
-----Original Message-----

From: Sundberg, Christopher
Sent: Monday, January 28, 2008 12:04 PM
To: Hanaman, Cathlene
Subject: LRB-2983/1

Can you do me a solid? I'm home sick today, and I got a message from Adam Folz in Brett Davis's office asking to have LRB-2983/1 jacketed. LRB-2983/1 is a draft that I did for DFI, and upon DFI's request I forwarded a copy of the draft to Adam. Davis would like to introduce it, but of course the email I sent did not have the 'jacket' button contained in the forwarding emails that come from the PA department.

Can you (or your nominee) help Adam out? I suspect this will involve entering a new request or something inconvenient like that. If you don't have time, let me know and I can come in and take care of it.

CS





State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2983/1
CTS:bjk&kjf:rs

2007 BILL

- 1 AN ACT *to create* 100.545 of the statutes; **relating to:** prohibiting the retention
2 of certain information obtained in transactions using account access devices.

Analysis by the Legislative Reference Bureau

This bill prohibits the retention of certain data by a person who accepts payment for goods or services in the form of a card issued by a financial institution, generally, a credit card or debit card. The bill prohibits a person who accepts such payment for a sale from retaining a security code, personal identification number, or certain other data, after the sale is authorized. If a person violates the prohibition, the person must reimburse the financial institution that issued the card for the cost of reasonable action taken to protect personal information pertaining to, or to continue to provide service to, the financial institution's customers. A financial institution that is injured by a violation of the prohibition on data retention may bring an action for damages against the violator.

Under the bill, persons are exempt from the prohibition on data retention if they comply with certain federal privacy and security standards or with certain industry standards for data encryption and security.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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1 **SECTION 1.** 100.545 of the statutes is created to read:

2 **100.545 Account access devices; retention of information. (1)**

3 **DEFINITIONS.** In this section:

4 (a) "Account access device" means a card issued by a financial institution that
5 contains a means for storage of electronic data.

6 (b) "Financial institution" has the meaning given in s. 134.97 (1) (b).

7 (c) "Security code" means digits printed or electronically stored on an account
8 access device that are used to validate information during the authorization process.

9 (d) "Service provider" means a person that stores, processes, or transmits
10 account access device data on behalf of another person.

11 **(2) RETENTION OF CERTAIN INFORMATION PROHIBITED.** No person that accepts an
12 account access device in connection with a sale of goods or services shall retain a
13 security code, a personal identification number, or the full contents of any track of
14 data from a magnetic stripe on the access device obtained from an account access
15 device, or permit the person's service provider to retain a security code, a personal
16 identification number, or the full contents of any track of data from a magnetic stripe
17 on the access device obtained from an account access device, after the sale is
18 authorized.

19 **(3) LIABILITY.** If a person violates this section and the violation causes the
20 security, confidentiality, or integrity of another person's personal information to be
21 compromised, the violator shall reimburse the financial institution that issued any
22 account access device affected by the violation for the cost of reasonable action taken
23 by the financial institution to protect personal information pertaining to, or to
24 continue to provide service to, the financial institution's customers, including the
25 cost of doing any of the following:

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1 (a) Canceling or reissuing an account access device affected by the violation.

2 (b) Closing an account affected by the violation and taking action to stop
3 payments or block transactions involving the account.

4 (c) Opening or reopening an account affected by the violation.

5 (d) Refunding or crediting a customer to cover the cost of an unauthorized
6 transaction relating to the violation.

7 (e) Notifying customers affected by the violation.

8 (4) EXEMPTION. This section does not apply to any of the following:

9 (a) A person that is subject to, and in compliance with, the privacy and security
10 requirements of 15 USC 6801 to 6827.

11 (b) A person that encrypts transmission of data pertaining to a holder of an
12 account access device across open and public networks using Wi-Fi Protected Access
13 or Wi-Fi Protected Access 2 security specifications.

14 (c) A person who complies with the Payment Card Industry Data Security
15 Standard.

16 (5) REMEDIES. Any financial institution injured by a violation of this section
17 may bring an action against the violator for damages. Notwithstanding s. 814.04 (1),
18 a court shall award reasonable attorney fees to a plaintiff who prevails in an action
19 under this subsection.

20 (END)